

## **Lewis County Planning Commission**

### **Public Hearing**

Lewis County Courthouse  
Commissioners' Hearing Room – 2nd Floor  
351 NW North St – Chehalis, WA

### **May 22, 2012 - Meeting Notes**

**Planning Commissioners Present:** Mike Mahoney, Russ Prior, Bob Guenther, Arny Davis, Jim Lowery, Clint Brown

**Planning Commissioners Excused:** Richard Tausch

**Staff Present:** Glenn Carter, Jerry Basler, Pat Anderson

**Consultants Present:** Mike McCormick

**Others Present:** Please see sign in sheet

#### **Handouts/Materials Used:**

- Agenda
- Meeting Notes from May 8, 2012
- Memo re: Planning Commission Bylaws proposed change
- Proposed Bylaw Changes
- Staff Report
- Memo: Contiguous Definition
- Staff Recommendation on Compliance
- Land Use Maps
- Forest Resource Land Maps
- Zoning Map

#### **1. Call to Order**

Chairman Lowery called the meeting to order at 7:01 p.m. The Commissioners introduced themselves.

#### **2. Approval of Agenda**

There were no additions or corrections to the agenda and it was approved as submitted.

#### **3. Approval of Meeting Notes from May 8, 2012**

Commissioner Guenther made a motion to approve the meeting notes; Commissioner Prior seconded. The motion carried.

#### **4. Old Business**

##### *A. Discussion on changes to Bylaws*

Mr. Basler stated the proposed change was the start time of the Planning Commission meetings from 7:00 p.m. to 6:00 p.m. with language to enable flexibility not only for meeting times but locations as well.

Chairman Lowery asked for any discussion.

Commissioner Prior suggested an additional word in the last sentence of section 1.2. He would like it to read: "This 'advisory' is a temporary adjustment....." because it was unclear what "This" referred to.

Commissioner Guenther stated he saw no problem with the time or language change. It allows the flexibility to serve the community as necessary. Historically the Commission has changed meeting times on occasion.

Commissioner Mahoney made the motion to approve the change; Commissioner Guenther seconded. The motion carried.

*B. Public Hearing on Comp Plan Land Use and Zoning Maps*

Chairman Lowery opened the public hearing at 7:06 p.m. on the Comp Plan Maps and text changes [the definition of 'contiguous'].

Chairman Lowery asked if there was any testimony from the public.

Mr. Ron Nilson, Mineral, asked the Planning Commission to ask the BOCC to rescind the decision to rezone the Forecastle property.

He then stated that on May 16 he met with Mr. Basler and was told that the paperwork was not ready. Title 17 requires 15 days and it wasn't ready so there was a lack of proper public notice.

Mr. Nilson stated the DNS was appealed on May 15 and on May 20 he received a letter from Mr. Johnson stating that the DNS was withdrawn after the appeal. There has to be a SEPA threshold determination for this proposal according to the law.

Mr. Nilson stated he believed the Planning Commission should stick with its original decision concerning the Forecastle property in denying the application.

Mr. Nilson continued to say that the original definition of 'contiguous' should stand. He stated the definition provided now by the planning department was drafted by Mr. Carter, the BOCC's attorney, and the planning department would then in turn make a recommendation to the BOCC. He thought the process was backwards. The BOCC has not given the Planning Commission options, such as rescinding the decision. They are telling the Planning Commission what to recommend to them.

This Friday Superior Court in Thurston County will hear the County's and Forecastle's appeal to the Growth Management Hearing Board's decision. This originally started with the Forecastle property and now the BOCC has taken the opportunity to springboard this into a County-wide decision which would involve thousands of acres being eligible for 20-acre subdivisions. To change from 80s to 20s allows four times the development. Mr. Nilson stated he believes the BOCC takes timber production and other forest products for granted. He does not think there is another industry in this County that has contributed as much economically to Lewis County. The BOCC only wants tax money to build houses that they say will be worth a half million or more. A recent development in Mineral was two cabins connected by a common deck – there were no County building permits and the County was not aware of it until Mr. Nilson made them aware. If 800 acres are opened up around Mineral Lake, the County does

not have the ability to police heavy development around Mineral Lake. 40 more owners on the undeveloped land – docks, yards and other things allowed in forest land will result in the pollution of Mineral Lake. Right now the lake provides a unique experience and the BOCC wants to take care of Forecastle who is only interested in development; they are not interested in the County's long-term health or the quality of life in Mineral.

Our position from the start was a consortium, backed by the BOCC, of private and public money to buy this land at a price higher than what a developer could profit from and make this public land tied with the water, which is also public.

Mr. Eugene Butler, Chehalis, stated the County came up with some revisions to its proposal last Friday and he had not had time to study those revisions. The County ordinance requires there would be 15 days' notice of the draft proposal and that time was not given. The proposal made seems to be incomplete as to what should be done. He asked if the Planning Commission would grant a continuance.

Chairman Lowery stated the Planning Commission would take that under advisement during the workshop following the public hearing.

Mr. Butler stated the only proposal that has indication of changes made is to the definition of the word contiguous and he thought more time should be allowed to consider those changes.

Mr. Butler asked whether or not the Planning Commission was attempting to provide an affirmation of the map from March of 1996, which is what LCC 17.30.420 referred to, and that .430 adopted as the Forest Resource Land of Lewis County. Some amendments were made based on Forecastle's application but neither .420 nor .430 was amended which he thought should be bound by the designations in 1996. The testimony about this in 2010 was that the designations were made in 1994 but so far as anyone can determine it wasn't written in code form until 1996. What Mr. Butler recalls happened in the early days of Growth Management was that the representatives of the forest people and the County officers had come to an early agreement as to what should be designated. The 1996 determination has never been amended and it should continue to be followed.

Mr. Butler stated he traced the local importance designations that were made and found that one of them involved land in west County – a 40-acre parcel that is enclosed by what is now a less than 5,000 acre enclosure of forest land. He thought it was local importance land and when he checked the 1999 map the land did not enclose the under 5,000 acre area that is now enclosed. There appears to have been amendments from 1996 designations but they cannot be located in any record.

The County wants to propose language to moot out the 2010 designations by Forecastle. Mr. Butler noted 29 areas on the County's [zoning] map where the amount of land enclosed by zoning other than local importance land is all less than 5,000 acres. Those areas, if you follow today's proposed definition of local importance of contiguous, would be unlawful to designate as long term significance under the current code. They are, if anything, lands of local importance. Some of those lands have been designated in total as local importance; some of the lands have been designated in only very small amounts. We have inconsistent applications of the zoning code as it existed from 2010 and is current, which is what is being litigated and is being heard this Friday.

Mr. Butler stated that back country land should never be subdivided because they are too steep to lend themselves to residential development. Mineral is one of those areas. There are issues of fire hazard that are not taken care of when you try to divide land into 20-acre parcels in the back-country area. The services to deal with those kinds of things are not available and it was not a mistake to have left the Forecastle land as 80-acre land and the code should not be revised to give carte blanche to anyone who wants to have his less than 5,000 acre parcel divided into 20 acre parcels. If the terrain could justify more heavy development that would be a reason to do so, but to do it on the basis of definition, when most of the land involved should not qualify, seems to be a mistake.

He recommended denial of the application and thought there should be a discussion about whether enough notice had been given. He submitted a copy of his map.

Ms. Roberta Church, Mineral, stated she believed the definition of contiguous should be left the way it was originally. It was understood when the Growth Management Plan was put into place that roads, railroads and waterways are all a part of managing the forests and they should not be used as a way to separate forest land when they are an integral part of forest land.

Ms. Church spoke about the cabins that Mr. Nilson mentioned. She said she was told by Forecastle that additional property tax would be generated by fancy homes – the two cabins might be worth \$10,000 and they do not meet any building code. That is not the kind of development that was promised or that the County was hoping for but she thought that would be the kind of development that could be expected if the land is opened up to 20-acre parcels.

There was no other testimony.

Chairman Lowery asked staff if there was a change in the meeting materials that required [15-day] noticing. Mr. Carter stated he did not think that would inhibit having this hearing. There was a proposal for the Planning Commissioners to consider; they can change the proposal or drop portions of the proposal. The notice is there and moreover the notice will be provided with respect to any Board of County Commissioners (BOCC) meeting at which time these folks will have a chance to testify as well.

The Chair asked if staff had comments and if the questions that came up during the testimony could be answered.

Mr. McCormick, consultant to the County, stated it is important to remember that this is a compliance action; the County is responding to the Hearing Board's decision. A lot of the discussion and testimony tonight has ranged beyond compliance with the Hearing Board's decision. The main issue with the Hearing Board's decision was not about the County's definition. The Board said the County's definition did meet the goals and requirements of the act, but from their perspective, it had not been consistently applied across the forest resource lands. In researching that, it was found there had been a series of requests from property owners to opt in under the provisions of the Forest Resource Lands (FRL) of local importance primarily between about 1994 and 1998. The criteria is slightly different for those lands; the primary difference being for FRL of long term commercial significance is that they not be adjacent to lands that show the prospect for more intense rural development. In looking at what had been done, starting about 2000 when the Comprehensive Plan was updated, one of the things that got lost was the fact that these lands met the criteria and were designated at the request of the property owners. To the

best of the County's ability, the majority, if not all of the lands where the Hearings Board saw that inconsistency, were lands that should have been shown and designated as FRL of local importance.

The proposal that came forward had three pieces. One was to change the Comprehensive Plan map and show just Forest Resource Lands, whether they were long-term commercial significance or local importance, which meets the requirement of the Growth Management Act. The second piece was to change the zoning map to accurately reflect what the historical record showed: that there were lands that were shown as long term commercial significance that had actually been opted in and should have been designated as local importance, requiring a correction to the zoning map. The third piece was a written definition of contiguous. Since the last meeting that has been looked at and reviewed and it is Mr. McCormick's opinion at this time to not adopt the changing of the definition. His argument for that is the Hearings Board found that the definition was satisfactory – it met the goals and requirements. If we try to articulate that, they may look at it to see what is different or why we had to do that. There has not been a lot of activity other than the Forecastle proposal over the last several years so staff's recommendation is that the Planning Commission does not recommend the adoption of the definition, but limit what is done to the corrections of the Comprehensive Plan Map and zoning map. That should solve the consistency problem that the Hearings Board saw and it is a more focused response and does not raise the prospect of new issues.

Mr. Carter thought staff agreed that the definition should not be changed, and that would also take care of the SEPA issue because with the correction of the maps there will be no DNS or environmental issues.

Mr. Carter stated with respect to the Forest Resource Lands of local importance in 1996 and 1997 the County did designate some lands as FRL of local importance for correcting the zoning map but he wanted to correct a point that Mr. Butler made. It is not unlawful to have a piece of property that is less than 5,000 contiguous acres designated as FRL of long term commercial significance. If it was so designated in 1996, which is as far as we know when the initial designations were made, there could have been properties that were less than 5,000 contiguous acres that were designated as FRL of long term commercial significance. Under the County's own initiative under 17.30.420 and .430 it can only designate long term commercial significance. It cannot designate local importance. When someone came in later, they had the option of opting in to local importance if they met the many criteria of .420 and .430. It is not unlawful for a landowner to choose not to opt in, and the County's position with the Superior Court is to point out that if there is an inconsistency that results here, it is an inconsistency that is built into the regulation. That regulation was never appealed and it is final; it is deemed compliant under the GMA and that is the County's argument.

Chairman Lowery asked if the zoning map that was proposed for adoption included Mineral Lake property as FRL of local importance. Mr. McCormick stated he believed it did.

Commissioner Guenther stated it had not been designated yet as local importance by the Growth Board. Mr. McCormick stated it is not up the Growth Board to make that designation; that is the County's prerogative. The BOCC has made that designation and the map reflects that.

Commissioner Guenther stated what is being appealed right now is that very thing: the appellants are saying it should remain long term commercial significance, not local importance. Mr. McCormick stated that is what they are saying; it is not what is before the Planning Commission tonight.

Commissioner Guenther stated he realized that but by signing the letter of transmittal it is changing the vote that he took in the beginning.

Mr. Carter stated the decision that the Growth Board made did not challenge the interpretation of the BOCC. It said the BOCC's interpretation was consistent with the plan that implemented the plan. The Growth Board said the only problem was the resulting mapping inconsistency. It was not challenging the designation itself. The designation was upheld.

Commissioner Mahoney asked what the County's position is today as to what the original definition of contiguous was. Did the roads, rights of way, rivers, etc. break up those parcels or didn't they?

Mr. Carter stated the definition that was originally drafted was an attempt to codify the decision that was made in 2010. So yes, the definition of contiguous that was applied before is –

Commissioner Mahoney asked if the Planning Commission asks that this new definition not be incorporated and the BOCC agrees, the language is left as it is, do those rights of way break up the contiguous acres or not? Mr. Carter stated they do; it is the County's interpretation that those rights of way do break up contiguity.

Commissioner Mahoney stated that in other parts of the code it does, and that the consistency throughout the zoning laws is important. Can one section, the definition of FRL, include a specific definition of contiguous that applies only to that section of the ordinance? Mr. Carter stated that could happen, yes.

Commissioner Mahoney stated he didn't like that answer because he thought there should be consistency and words should mean specific things; otherwise we are opening it up for more lawsuits about what is meant. He disagrees with the interpretation of what was originally intended. Looking at the map there are many areas where if you use improved rights of way to break up the [contiguity] those areas could not have initially been zoned FRL, because they were not 5,000 acres. He thinks the original intent was fairly clear, that those roadways did not break those up. He knows that the County uses roads in other areas of the ordinance to break up parcels, and he would like a consistent application. He wanted it understood that there could be other definitions if the BOCC writes the rules.

Mr. Carter stated that in the context of a subdivision code you may want a different definition than in the context of another context. The point of the definition when it was first proposed, which we are backing away from now, was to try to provide a definition that was specific to the resource land. We understand the difficulties with that. He can't do that going back to 1996 because he does not know what was applied. Mr. Carter stated he does believe that the definition that was proposed, that may not be adopted, was consistent with what the Board did in 2010.

Chairman Lowery asked if there were other comments for the public hearing. Hearing none, he closed the public hearing at 7:47.

### *C. Workshop on Comp Plan Land Use and Zoning Maps*

The Chair opened the workshop and recognized Commissioner Guenther.

Commissioner Guenther stated this hearing brings back why he voted not to move this proposal forward in the beginning. He remembers the testimony about the rails and roads separating the property. He disagreed with that then and he disagrees with it now. He said part of the language reads "common corner or otherwise". "Otherwise" was the reason, to him, why that land was designated long term commercial significance. Those railroads and roads were there to build that forest. "Otherwise" means in a different manner or different circumstances. He is glad that this has been set aside.

Mr. McCormick reiterated that the Planning Commission recommendation went forward and the BOCC made a policy decision adopting it; it was challenged before the Growth Board, and that Board said the policy decision was okay but they saw an inconsistency in how the policy was applied. The County is trying to remedy that inconsistency based on the record as the County can establish it. He understands that the policy that the BOCC adopted is not consistent with the Planning Commission's recommendation but the focus tonight is on a rather narrow piece.

Chairman Lowery stated he understands that the Planning Commission is an advisory board and the BOCC sets the policy and adopts the legislation. One thing the Planning Commission struggled with before making its recommendation to the BOCC was the definition and it said less than 5,000 contiguous acres would be eligible for local importance and we could not see in any presentation where this fit into the under 5,000 requirement. The County made its decision and Chairman Lowery understands why the Growth Board doesn't think it is consistent because we did change what we had considered 5,000 or less. This is confusing. The Planning Commission tried very hard to make the right decision on that. We heard it twice; it was remanded back to us and we could not untie that from less than 5,000. It fit in the 5,000 and over category. When the BOCC changed it, it seems like that is what the issue is and what created the problem.

Mr. Carter stated the Growth Board had a hard time understanding 5,000 contiguous acres. There is no question that that is what motivates the decision. At the same time, they had to put it in the framework that was within their jurisdiction. From their point of view, they can't say that the BOCC interpreted its code incorrectly because that is not within their jurisdiction. How a BOCC defines its own code is for that BOCC and the Growth Board can say nothing about that. All they can address is a resulting inconsistency, which in this case was very difficult for them to do, given that the regulation has the inconsistency written into it.

Chairman Lowery offered a hypothetical situation. What if a large timber company has at least 5,000 acres and they have a piece they want to carve out that they think would make a good development. Wouldn't they qualify under this decision that has been made by the County?

Mr. Carter stated the problem is that in hindsight it looks like a simplistic analysis, but the criteria for what meets local importance is difficult. The reason Mineral Lake even got close is because it is on the periphery between development, the town of Mineral, and a huge area to the east which is FRL of long term commercial significance. The only reason there is an argument is because it is on that periphery. If you talk about FRL of local importance under the definitions (neither definition provided to the Planning Commission will be in there – only the definition that is in the subdivision code) and look at the criteria and what other areas of the County might fall within that it is very limited. Most of the properties that might be 5,000 acres touch other areas. There are about 2,028 acres that might fall within FRL of local

importance. If we have a chance in the compliance hearing before the Growth Board we may present that. If you look at the criteria in .420 and .430, you are not going to meet the criteria if you try as a timber company to take out an island from that large swath. It is not just size; it is a number of criteria.

Chairman Lowery stated there are areas where he has hunted that seem like they would fit the same way the Mineral property did.

Mr. McCormick stated Chairman Lowery might be correct. His analysis was to look at what was contiguous and where there were 5,000 acre blocks, either within the County, or including forest land in adjacent counties. The GIS folks assured us that this definition in and of itself would not create additional problems with the 5,000 acre block size. There are probably parcels around the periphery that might meet the criteria for local importance. Nothing is going to happen to those unless the owner takes the initiative to move forward and then a specific decision will have to be made based upon the application of the criteria to a particular parcel. There has not been a rush to do that, and if there is and it is producing an outcome that is not in the County's interest, then there are opportunities to correct it at that time. Again, Mr. McCormick is trying to respond to a Hearing Board's finding to a potential inconsistent application and he believes correcting the zoning map and correcting the Comprehensive Plan map will address that inconsistency.

Commissioner Mahoney stated putting the definition aside, regardless of the court case, we will be changing the maps. It is very important that the maps are accurate. Does the Planning Commission make a recommendation on that?

Mr. McCormick stated the Planning Commission has had a hearing and it should make a recommendation.

Mr. Carter stated that regardless of what happens on the appeal, the maps will remain with this recommendation.

Commissioner Guenther spoke to Part 2 of the Executive Summary that was in the packets. Item number 4 states that the compliance proposal will not result in a reduction of FRL in the County. He asked how that statement came about.

Mr. McCormick stated that FRL is the designation that is in the statute and in the Comprehensive Plan. There are two components to the zoning map. One is forest lands of long term commercial significance and the other is forest lands of local importance. We are not changing the total number of acres in FRL. We are slightly reducing the number of acres that are in forest lands of long term commercial significance and slightly increasing the land in local importance. The total acreage does not change.

Commissioner Guenther stated the total usable land does change. If 800 acres are put into 20 acre parcels and homes, driveways, and garages are put on them you have reduced the amount of land that is available for forest production.

Mr. Carter stated that forest resource land permits putting residences on property; that is part of forest resource land. With respect to Forecastle, they took 1200 acres that could have had 1 in 80 and said they would put zero residences on it which was their attempt to mitigate that impact.



Commissioner Prior stated he had several questions. He asked if you have to start with a parcel that is forest resource land or can a piece that is zoned RDD-10 be changed to FRL of local importance. Mr. McCormick stated yes, if 1) you meet the definition and 2) if you file a request to be so designated.

Commissioner Prior then stated 17.30.422 describes what local importance is: land that falls outside a 5,000 contiguous acre block. What does outside mean – is it geographic or size? Mr. McCormick stated he thinks it means that such designation would still leave a contiguous 5,000 acre block standing.

Mr. Carter stated the Forecastle property is adjacent to a block of FRL that stretches from the center of the County to Mt. Rainier and beyond. With respect to the Forecastle property, which is on the very western edge of that large piece, if you take the Forecastle property out, you still have a block of 5,000 contiguous acres of forest resource lands. It falls outside of the core of 5,000 contiguous acres that the regulation requires for designation.

Commissioner Prior stated that some of the Stinson family properties are not adjacent to any 5,000 acre block, so that is not a requirement for FRL of local importance. Mr. McCormick stated that is correct. Mr. Carter stated theirs' are some of the properties for which we are correcting the mapping. Under the definition that the petitioners argued for, they would be contiguous to a 5,000 acre block and would be FRL of long term commercial significance since they are not separated by roadways or anything. In 1997, notwithstanding that they would be contiguous to a 5,000 acre block, the County deemed them to fall outside of the core of 5,000 contiguous acres and designated them as FRL of local importance. In fact, there is some consistency in what the County has done over the years.

Mr. McCormick stated he would state it a little differently: the County determined that it was not forest resource lands of long term commercial significance and probably designated it rural initially, at which point the property owners came to the County and said they would like to be forest resource land of local importance. Their proximity, or not, to FRL of long term commercial significance was not a criterion that was in the regulations. It could be right up against it, as several of the parcels are, or it could be an isolated parcel or group of parcels. The County has some of those, too, which led to the original problem of consistency in the eyes of the Hearings Board.

Commissioner Prior asked why the opt-out language in 17.30.550 was repealed. Mr. McCormick stated it was because the Hearings Board found that it was inconsistent with the goals and requirements of the Growth Management Act.

Commissioner Prior asked what the difference was between not being able to opt out and simply not renewing FRL of local importance after ten years. Mr. Carter stated the 10-year provision is gone as a matter of law because it was repealed by the Board's decision. Even if it is in writing in the code that you are reading, it is not enforceable and effective; there is no 10-year limit. Once you are FRL of local importance that is an FRL designation and it could only be changed if the BOCC found that re-designation out of resource land was appropriate by applying all of the various criteria that are required for that type of decision.

Mr. McCormick stated that language should be removed when the County gets around to reviewing and updating its code, which has been something that has been talked about for some time, but the resource constraint has made it very difficult to undertake.

Commissioner Prior stated in his initial reading of the packets and code, he understood there was a window of opportunity to opt in to FRL of local importance. He asked if it is still possible to do that. Mr. McCormick stated that it was.

Commissioner Brown wanted clarification on what the Planning Commission is being asked to do. It is being asked to change the zoning map to show the pieces of property that have opted in to local importance. This was done under the county code; the property owners made that request but the maps do not show that. Mr. McCormick stated they made the request and the requests were adopted. The County has gone back and verified those properties. This is to correct an error that was made between 1996 and 2000. Unfortunately there is no record of how that error was made.

Commissioner Brown stated once they opt in they cannot opt out. Mr. McCormick stated they could come back to the County if they felt conditions had changed and they no longer met the criteria and ask to have their property re-zoned to something else. It would be up to the Planning Commission and the BOCC to make a decision on that request.

Commissioner Brown asked if that was what Forecastle did. Mr. McCormick stated that Forecastle asked to be designated FRL of local importance.

Mr. Carter explained that the designation is of resource land and the first level. Classification is the second level. Forecastle asked to be re-classified.

Commissioner Brown did not understand what needs to be changed on the maps with regards to the FRL designation.

Mr. McCormick stated the Comprehensive Plan land map is going to be changed to show everything one color. There will only be forest resource lands on the Comprehensive Plan map. The zoning map will have two forest resource lands classifications: one of long term commercial significance and one of local importance.

Commissioner Brown asked if there would be two maps.

Mr. Carter stated the County has had a land use map and a zoning map that were combined. What we will do is separate them out. The land use map will show only forest resource lands because the land use map has an ARL, FRL. With respect to FRL it will show only FRL. There will be a change to the land use map because the Forecastle property on the land use map was shown as FRL of local importance. It was the only local importance parcel on that map. The map will be changed to show just forest resource land as one color throughout the map. The zoning map will have the two classifications shown.

Commissioner Brown asked again if there would be two maps. Mr. McCormick stated there have always been two.

Chairman Lowery stated there had been a discussion several months ago about putting the maps on the website, and to be able to dig down to the general classifications to the detail zoning. Commissioner Brown stated it would be a layered map. Mr. McCormick stated yes, they will be consistent with one another because of the classifications. Part of the work on this was looking at the classification map, the land use map, and identifying some other changes that the County would like to bring forward to have this be a consistent application across all of the land use designations. The next layer would be the zoning map and it will be consistent but there will be more categories on the zoning map than on the land use map.

Commissioner Brown asked if the Planning Commission recommends these two changes, and if they are adopted by the BOCC, will that bring the County into compliance with the Growth Board. Mr. McCormick stated he believed it would but that is the decision that the Growth Board will have to make on our response to the remand. Mr. Carter stated the process would require a hearing before the Growth Board where the County presents its proposal and they have a chance to ask questions and the petitioner can make their arguments.

Commissioner Guenther stated during the testimony tonight he heard that there was a cabin that was built and he asked if that was on Forecastle land. Mr. Nilson stated no, it was not on Forecastle land.

Commissioner Guenther asked about the attachment mentioned in the Letter of Transmittal. He was told it was the staff report that was included in the packet; it had not been attached to the Letter of Transmittal but would be when it went to the BOCC.

Mr. McCormick made it clear that staff is not recommending amending LCC 17.30 to add a new definition.

Commissioner Prior understood that FRL is designated and is further classified to local importance or long term commercial significance. In 17.30.430 "Designation" says that FRL is further designated into either of the above. He asked for clarification.

Mr. Carter stated the confusion between designation and classification is understandable. In 17.30.430 the paragraph that leads into it uses 'classification' and 'categories'. Both of these are a sub-set of what is the larger set, which is forest resource lands. The term 'designation' comes out of the statute and it should be that we designate resource lands and then we can classify 'categories' of resource lands.

Chairman Lowery asked for other comments. Hearing none, he entertained a motion to forward the Letter of Transmittal on the Comp Plan and zoning maps.

Commissioner Brown referenced the Letter of Transmittal, number 3, and asked if that was in reference to the definition of contiguous. Mr. Carter stated it was. Commissioner Brown asked if that would be removed. Mr. Carter stated any reference to the definition to contiguous should be removed from the recommendation.

Commissioner Davis stated there was mention earlier about [noticing] timeframes and asked if the Planning Commission was out of bounds by sending this letter in too soon. Mr. Carter stated there were two issues of timing. One of them was raised by the SEPA issue, but if the definition is not proposed

then that is not an issue. The only other time limit is that there is a June 14 deadline that the Growth Board has imposed.

Commissioner Davis asked if everything was okay regarding public notification. Mr. Carter stated that the objection as he understood it was that we did not include the new change to the definition of contiguous. However, it has always been understood that the definition of contiguous was just a proposal with the possibility that there would be no definition of contiguous.

Commissioner Brown stated by dropping the proposed change to contiguous, which was the argument as to why there should be a continuance, eliminates the issue because that issue is no longer being presented.

Mr. Carter stated yes, but also whenever you give notice of what you are going to do it is a proposal. You can't give notice to a Planning Commission of what you are going to do. It is up to the Planning Commission what it does; it has the discretion to reject certain proposals, to accept or modify proposals, so we cannot give notice of what exactly it is going to do.

Chairman Lowery agreed that it is a proposal, but asked if the proposal is usually within the confines of what is going to be discussed. Mr. Carter stated it is staff's objective to give as much notice as possible.

Commissioner Brown stated the Letter of Transmittal, general findings of fact (1)(iii) mentions LCC 17.30 and asked if that goes back to the contiguous issue and should it be removed.

Mr. Carter stated he was not certain of that. In one part, the land use map is being changed and the land use map is part of the Comprehensive Plan, and the resource land map component of the land use map is something we are amending. To the extent that it would apply to the definition of contiguous, he agreed with Commissioner Brown.

Mr. McCormick stated he believed everyone was clear on what the intent was. He was not sure the letter is perfected. He suggested that the Planning Commission proceed with its recommendation without signing the Letter of Transmittal. It needs another review by counsel and staff to make sure that it is precise.

Chairman Lowery stated he would not sign the Letter of Transmittal tonight, but if the Planning Commission wished to forward this with recommendations or amendments that could be done tonight.

Commissioner Mahoney made the motion to forward the Letter of Transmittal, excluding anything to do with the contiguous definition. Commissioner Prior seconded.

Commissioner Guenther stated the Board of County Commissioners have made a decision and he understands the explanation by staff. He looks forward to legislation to designate exactly what contiguous means.

Commissioner Mahoney stated Mr. Butler raised the issue of notification and he hoped what the Planning Commission is doing in not forwarding any of the definitions, just the mapping, would resolve

any problems that Mr. Butler had. If there is a problem he should be given a chance to address the Planning Commission one more time.

Chairman Lowery stated those changes involved the definition of contiguous, which we are not dealing with and Mr. Butler may speak to that during the Good of the Order if he wishes to do so.

Chairman Lowery called for the question. The motion carried, with Commissioner Guenther opposed.

## **5. New Business**

There was no new business.

## **6. Calendar**

At this time the June 12 meeting is tentative. There was discussion regarding the start time as discussed earlier in the meeting. This issue has to be approved by the BOCC and it is not on their calendar yet. If there is a meeting in June it will most likely start at 7:00 but the time will be noticed with adequate time.

## **7. Good of the Order**

Mr. Basler informed the Planning Commission that this would be his last meeting as he has taken a position with the City of Spokane. He stated he has enjoyed working with the Planning Commission.

Mr. Nilson asked where the County was in regards to the SEPA. It withdrew the Determination of Non-Significance; there has to be a SEPA of some kind.

Mr. Carter stated if there is just a map correction and no change in the definition of contiguous, there is no action for purposes of SEPA. There will not be a new SEPA.

Mr. Nilson asked if that was appealable. Mr. Carter stated he did not think so but Mr. Nilson should consult his own lawyer.

## **8. Adjourn**

A motion was made and seconded to adjourn; adjournment was at 8:40 p.m.